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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,678	11/12/2003	Gene Michal	50623.352	9070
7590 10/04/2004			EXAMINER	
Cameron K. Kerrigan Squire, Sanders & Dempsey L.L.P.			PHAN, HIEU	
Suite 300			ART UNIT	PAPER NUMBER
1 Maritime Plaza		3738		
San Francisco, CA 94111			DATE MAILED: 10/04/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

1)⊠ Responsive to communication(s) filed on 12 November 2003. 2a)□ This action is FINAL. 2b)⊠ This action is non-final. 3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)☑ Claim(s) 37-49 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5)□ Claim(s) 37-49 is/are rejected. 7)□ Claim(s) is/are objected to. 8)□ Claim(s) is/are objected to. 8)□ Claim(s) is/are subject to restriction and/or election requirement. Application Papers 9)□ The specification is objected to by the Examiner. 10)□ The drawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11)□ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12)□ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)□ All b)□ Some * c)□ None of: 1.□ Certified copies of the priority documents have been received. 2.□ Certified copies of the priority documents have been received in Application No. 3.□ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received.		Application No.	Applicant(s)					
Hieu Phan S738	Office Assistant Commencer	10/712,678	MICHAL, GENE					
The MALLING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Elementor of term reply a shadle under the previous of 3 FCR 1.136(a). In no event, however, may a reply be timely filed If the period for reply specified store is less than 18kg (30) days, as rejly within the adulationy minimum of thirty (30) days will be considered timely. If the period for reply specified store is less than 18kg (30) days, as rejly within the shadle or help specified of the reply will. By shadle, cause he spiritual for the spiritual period will appear and vil expirits 25(MONTH) fix from the realizing add of this communication. Fallow be reply within the set or effected period for reply will, by shadle, cause he spiritual not become ASHNCORED (30 tig. 1, 313). The period for reply is specified store. Became the sending state of this communication, even if timely field. They reduce the reply selected for reply will, by shadle, cause he spiritual not become ASHNCORED (30 tig. 2, 313). The Responsive to communication(s) filed on 12 November 2003. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 37-49 is/are pending in the application. 4) Claim(s) 37-49 is/are allowed. 5) Claim(s) 37-49 is/are allowed. 6) Claim(s) 37-49 is/are rejected. 7) Claim(s) 37-49 is/are rejected. 7) Claim(s) 37-49 is/are rejected. 8) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are; a)	Oπice Action Summary	Examiner	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of them may be available under the provisions of 32 CFR 1.35(d), in no event, however, may a raphy be timely filed. Extensions of them may be available under the provisions of 32 CFR 1.35(d), in no event, however, may a raphy be timely filed. Extensions of them may be available under the provisions of 32 CFR 1.35(d), in no event, however, may a raphy be timely filed. Extensions of them may be available under the provisions of 32 CFR 1.35(d) within the statutory minimum of thirty (30) days will be considered directly. If NO ported for raphy is apposited above, he maximum statutory provised will apply and vide copies SIX (6) MO3/THS from the mailing date of this commendation. Failure to provide with the provision of the mailing date of this commendation. Provision of the provision of the provision of the mailing date of the commendation, even if timely filed, may notice at any search provision and patient term adjustment. See 37 CFR 1.704(a). Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☐ Claim(s) 37-49 is/are placed. (b) ☐ Claim(s) is/are allowed. (c) ☐ Claim(s) is/are allowed. (c) ☐ Claim(s) is/are allowed. (d) ☐ Claim(s) is/are allowed. (e) ☐ Claim(s) is/are allowed. (f) ☐ Claim(s) is/are allowed. (f) ☐ Claim(s)								
THE MAILLING DATE OF THIS COMMUNICATION Education in many be unables under the provision of 37 cPR 1.78(e). In no event, however, may a teply be limely filed able SX (6) MCNTRS from the mailing date of this communication. It is a state of the provision of th								
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Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)								
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Specification

1. The abstract of the disclosure is objected to because legal phraseology have been used. The legal terms "comprises" were used in the abstract and correction is See MPEP § 608.01(b). required.

Claim Rejections - 35 USC § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 37-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent 6,379,379) in view of Zaffaroni et al. (U.S. Patent 4,142,526).

Wang disclose a stent (10) made can be metal stent or polymeric stent having a coating contain drugs such as antithrombin or antiplatelet compounds as is claimed (Entire document but especially the following passages: Abstract, Figures 1-12, column 2 lines 26-67, column 3 lines 1-8 and 59-67, column 4 lines 1-34, column 5 lines 19-67 and column 6 lines 1-30). But Wang fails to disclose the carboxylic acid co-monomer content between 5-50 wt%.

Zaffaroni et al. teach an implant having a drug release coating with the carboxylic acid co-monomer content between 5-50 wt%. The advantage of having the carboxylic acid co-monomer content between 5-50 wt% is the release rate of the drugs can be vary by increase the co-monomer content.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Zaffaroni et al. to modify the apparatus Wang to have the carboxylic acid co-monomer content between 5-50 wt%. The motivation for incorporating the feature of Zaffaroni et al. into the apparatus of Wang the release rate of the drugs can be vary by increase the co-monomer content.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Phan whose telephone number is 703-308-8969. The examiner can normally be reached on Monday-Friday from 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M McDermott can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hieu Phan